

## REMARKS

### 1. Claims Amendments.

Claim 1 has been amended to incorporate some of the subject matter from Claims 19 and 20. Applicant submits that Claim 1 is now allowable.

Claims 2 and 3 have not been amended in this Response.

Claims 4 and 5 have been cancelled as drawn to a non-elected species.

Claims 6-13 have not been amended in this Response.

Claims 14-18 have been cancelled as drawn to a non-elected species.

Claims 19 and 20 have been amended to delete the subject matter incorporated into Claim 1 and to have proper antecedent bases.

Claim 21 has been cancelled.

Claim 22 has been amended to include subject matter taken from original Claims 19 and 20. Applicant submits that Claim 22 is now allowable.

New independent Claim 23 is a combination of original Claims 1 and 2. As the examiner objected to Claim 2 as being dependent on a rejected base claim, but that Claim 2 would be allowable if rewritten in independent form including all the limitations of the base claim (Claim 1) and any intervening claims (none), Claim 23 is allowable.

New dependent Claims 24-30 are crafted from original Claims 3, 8, 9, 10, a combination of 11 and 12, 13, and a combination of 19 and 20, and all depend directly or ultimately from new Claim 23. As new independent Claim 23 is allowable, new dependent Claims 24-30 also are allowable.

No new matter has been added in any of these amendments.

### 2. The Claims Are Not Anticipated By US Patent No. 6095915 to Geissler.

Anticipation under 35 USC 102(b) requires "the disclosure in a prior art reference each and every element of the claimed invention." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 USPQ2d 1081 (Fed. Cir. 1986); *see also verdegall Bros. V. Union Oil Co. of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) ("a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference"). The absence of one element from the cited prior reference negates anticipation. *See*

*Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 224 USPQ2d 409 (Fed Cir. 1984). As discussed below, US Patent No. 6095915 to Geissler (Geissler '915) does not contain each and every element as set forth in the current claims as amended and the new claims as presented. Geissler '915 discloses and claims a device for mounting on the stud of an ear tag, while the present invention discloses and claims a device for mounting on the main body or neck of the tag, whether an ear tag, an ankle tag, or any other type of tag, and not on the stud.

The federal circuit has applied anticipation narrowly. For example, the Federal Circuit affirmed a district court determination that patents related to a ceramic welding process for repairing industrial furnaces were not invalid for anticipation, notwithstanding that the claims of the patents overlapped with or read on either or both of two prior art patents, because the district court properly determined that the prior art patents were related to flame-spraying and to combustion at the furnace wall. *See Glaverbel Societe Anonyme And Fosbel, Inc. v. Northlake Marketing & Supply, Inc.*, 33 USPQ2d 1496 (Fed Cir. 1995). Even though both inventions had a general relation to combustion, they were not so related that one of ordinary skill in the ceramic welding art would look to the flame-spraying art or the furnace wall combustion art. The Geissler '915 invention is not structured or disclosed as being able to be mounted on the main body or neck of an ear tag, an ankle tag, or any other type of tag, and thus Geissler '915 lacks critical elements contained in the present invention.

Geissler '915 discloses an animal tracing system having a parasitic premise information panel for attachment to the stud of an ear tag for use in determining the history and origins of an animal after animal has been slaughtered. The preferred information panel contains a bar code and a numeric code to reveal the animal's history and age. The identification panel is placed about the *stud* of the animal tag and **not on the tag body itself**. *See* column 2, lines 64-5; and column 4, lines 19-20; and column 7, lines 14-16. Thus, because the information panel of Geissler '915 is placed on the stud of an ear tag but not on the tag body, there is an inherent distinction between the Geissler '915 device and the present invention. Further, while a supplemental tag placed on the stud of an ear tag may be easy to view on a dead animal, but it is difficult to view on a live animal, resulting in a different purpose.

In contrast, Applicant's invention is a supplemental tag that attaches to the **body or the neck** of a pre-existing identification tag selected from the prior art, and not to the attachment stud. In most cases, Applicant's invention can be used to supplement tags that have been designed without Applicant's invention in mind, *including tags that do not have attachment studs*. Thus, Applicant's invention is distinct from the tag in Geissler '915 and Geissler '915 does not disclose each and every element of the present invention.


Applicant's invention as disclosed and claimed also is structurally and functionally different than the invention disclosed in Geissler '915. Applicant's invention is a supplemental tag for use with primary tags attached to an animal comprising an attachment means for reversibly mounting the supplemental tag on the **tag neck or tag body**. Applicant's supplemental tag is not intended for placement around the stud of a tag. One reason for Applicant's invention is to create a tag that can be placed around a primary tag relatively easily and can be viewed at a distance on a live or dead animal. As Applicant's tag is not intended to be placed around the stud of a tag, it will inherently have a different structure than that of a tag placed around the stud of a tag. Thus, because the tag in Geissler '915 by disclosure is placed around the stud of an ear tag, Applicant's invention as claimed cannot and is not anticipated by Geissler '915.

For these reasons, Applicant submits that Applicant's invention as claimed in the current claims is patentably distinct from the tag in Geissler '915. As such, Applicant requests that the examiner withdraw the rejection based on Geissler '915.

**CONCLUSION**

Applicant believes it has fully addressed the examiner's concerns and the patent application is in condition for allowance, and Applicant respectfully requests such action. If the examiner has any questions that can be resolved over the telephone, please have the examiner contact the below signed patent attorney of record at 770.522.9762.

Respectfully submitted,  
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